

REMARKS

The above-identified application has been reviewed in light of the Office Action mailed on July 28, 2005. By the present amendment, the Applicants have amended claims 1, 6, 10, and 19. In addition, the Applicants have canceled claims 5, 14, 15, 23, and 24. It is respectfully submitted that the claims pending in the application are fully supported by the specification, introduce no new matter, and are patentable over the prior art.

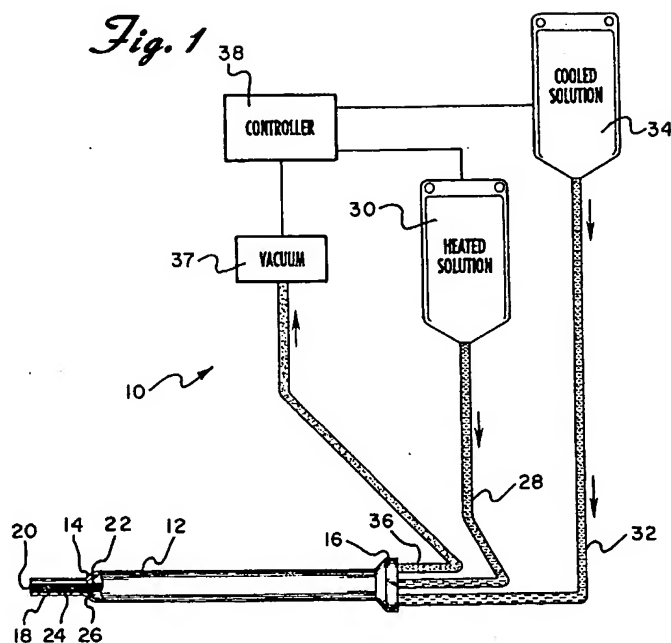
In the Office Action, claims 1-4, 7-13, 16-22, and 25-27 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 6,117,126 to Applebaum et al. (the '126 patent). According to the Office Action, the '126 patent discloses a portable base having an upper portion, a display head mounted to the upper portion of the base, an ultrasonic fragmentation device, an aspiration system, an irrigation system, a power system, and a control system. In addition, the Office Action asserted that the '126 patent discloses all the features recited in claims 1-4, 7-13, 16-22, and 25-27, but fails to disclose that the display is adjustable. According to the Office Action, it would have been obvious to make the display of the '126 patent adjustable.

In the Office Action, claims 5, 6, 14, 15, 23, and 24 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over the '126 patent in view of U.S. Patent No. 5,616,120 to Andrew et al. (the '120 patent). According to the Office Action, the '126 patent discloses all the features recited in the claims, but fails to disclose a cooling system and a fluid control device. The Office Action asserted that the '120 patent discloses an apparatus for liquefaction and aspiration that includes the use of a cooled solution for irrigation and stated that it was inherent for the system disclosed in the '120 to include a fluid control device since the system also had a heated irrigation solution and the administration of the two solutions is tightly controlled to prevent

undue heating of surrounding tissue and that it would have been obvious to include the cooling system of the '120 in the device of the '126 patent.

As presently amended claim 1 recites a surgical console including, *inter alia*, an aspiration system, a fragmentation device, an irrigation system, and "a cooling system adapted for circulating a cooling liquid to the fragmentation device, the cooling system being separate from the aspiration system and irrigation system," amended claim 10 recites a surgical console including, *inter alia*, an aspiration system, a fragmentation device, an irrigation system, and "a cooling system connected to the surgical device and configured to circulate a cooling fluid for cooling the surgical device," and amended claim 19 recites a surgical system including, *inter alia*, an ultrasonic tissue fragmentation device, an aspiration system, an irrigation system, "a cooling system configured solely for cooling the fragmentation device, the cooling system configured for circulating a cooling liquid."

The '126 patent discloses a system for controlling a plurality of instruments. The system is located atop a wheeled instrumentation cart and includes a display, at least one ophthalmic microsurgical instrument, and a source of power. However, as acknowledged by the Office Action, the '126 patent does not disclose or suggest a cooling system or a fluid control device as recited in amended claims 1, 10, and 19. The '120 patent discloses a system for delivering a heated fluid to the lens nucleus of an eye while simultaneously irrigating a small area of the lens nucleus with a cooled solution. In particular, as shown in Figure 1 below, the '120 patent discloses that the system 10 has a handpiece 12 having lumens 22, 24, 26 extending therethrough. The tip 20 of the handpiece is fluidly coupled to a vacuum source 37, a heated solution supply 30, and a cooled solution supply 34 via lumens 22, 24, and 26 respectively,



wherein the heated solution and the cooled solution are discharged through their respective ports at the tip 20 and into the lens nucleus (i.e. irrigation) prior to being aspirated by the vacuum source 37. The cooled solution is not circulated through the handpiece 12 for cooling the handpiece, but discharged therefrom for cooling the lens nucleus of the eye. The '120 patent does not disclose or suggest a cooling system for "circulating a cooling liquid to the fragmentation device" as recited in amended claim 1, a cooling system for "circulating a cooling fluid for cooling the surgical device" as recited in amended claim 10, and a cooling system "configured solely for cooling the fragmentation device, the cooling system configured for circulating a cooling liquid" as recited in amended claim 19.

Combining the cooled solution supply disclosed in the '126 patent with the system disclosed in the '120 patent, as suggested in the Office Action, does not result in the surgical console recited in amended claims 1 and 10 or in the surgical system recited in amended claim 19. Therefore, for the reasons discussed above, it is respectfully submitted that amended claims

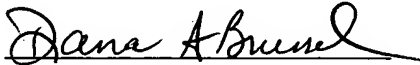
Appl. No. 10/628,673
Amdt. dated November 28, 2005
Reply to Office Action Mailed July 28, 2005

1, 10, and 19 are not suggested by the '126 patent or the '126 patent in view of the '120 patent and the rejection of the Office Action has been overcome. Since claims 2-4 and 7-9 depend from amended claim 1, claims 11-13 and 16-18 depend from amended claim 10, and claims 20-22 and 25-27 depend from amended claim 19, it is respectfully submitted that the rejection of these claims has also been overcome. In addition, the Applicants have canceled claims 5, 14, 15, 23, and 24, and it is respectfully requested that the rejection of these claims be withdrawn.

Prompt and favorable action on these claims, namely claims 1-4, 6-13, 16-22 and 25-27, is earnestly requested. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, New York 11747
Tel.: (631) 501-5713
Fax: (631) 501-3526


Dana A. Brussel
Reg. No. 45,717
Attorney for Applicants

Send correspondence to:
Chief Patent Counsel
Tyco Healthcare Group
150 Glover Avenue
Norwalk, CT 06856